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Honorable Gary Feinerman

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

LUMINO DESIGNS, INC.

Plaintiff,

v.

MATTEL, INC.

Defendant.

Cause No. 1:09-cv-1988

JOINT STATUS REPORT

In response to the Court's Order of September 16, 2010 directing the parties to submit a joint status report concerning the status of the case, the parties respectfully report the following:

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19 **A. Nature of the Case:**

20 Plaintiff Lumino Designs is represented by Lead Trial Counsel Philip P. Mann, Mann
21 Law Group, 1218 Third Avenue, Suite 1809, Seattle, WA 98101 and Local Counsel Andrew
22 T. Staes and Stephen D. Scallan, Staes & Scallan, P.C., 111 W. Washington, Suite 1310,
23 Chicago, IL, 60602.

24 Defendant Mattel, Inc. is represented by Lead Trial Counsel David A. Nelson and
25 Christopher Freeman, Quinn Emanuel Urquhart & Sullivan, 500 W. Madison St., Suite 2450,
26 Chicago, IL 60661.

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1 This is an action for patent infringement wherein Lumino Designs contends that
2 certain products marketed by Mattel, Inc., infringe one or more claims of Lumino Design's
3 United States Patent No. 5,743,616. Lumino seeks an award of damages for infringement of
4 its patent.

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6 Federal Jurisdiction is based on 28 U.S.C. §§ 1331 (b),(c) and /or 1400(b), this being
7 an action arising under the Patent Laws of the United States.

8 As noted below, the case, upon Plaintiff's motion, has been stayed pending the
9 outcome of a reexamination proceeding that is presently pending in the United States Patent
10 and Trademark Office concerning the subject patent. Should the patent successfully emerge
11 from reexamination, the principal factual and legal issues will turn on the construction of the
12 patent claims, the infringement of those claims, the validity and/or enforceability of the
13 patent, and the damages or other relief, if any, to be accorded Plaintiff.

14 The sole defendant, Mattel, Inc., has been served, but has not Answered Lumino
15 Design's Complaint.

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17 **B. Proceedings to Date and Discovery:**

18 This case was filed by Lumino Designs on March 31, 2009. At the time of filing, the
19 subject patent was undergoing "reexamination" in the United States Patent and Trademark
20 Office. Shortly after filing, and before Defendant Mattel filed a responsive pleading, Lumino
21 Designs moved for a stay of the action pending the outcome of the reexamination (Docket No.
22 13). On July 28, 2009, this Court granted the motion and stayed the case until reexamination
23 of the subject patent was completed. Because the case was stayed shortly after filing and
24 before Mattel filed a substantive pleading, a case scheduling order was never entered, and
25 none of the substantive trial or pretrial dates have been set. Nor has any discovery been
26 conducted.

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1 **C. Trial:**

2 Lumino Designs has demanded a jury.

3 A trial date has not been set. Lumino and Mattel anticipate the case being ready for
4 trial within approximately 24 months after the patent emerges from reexamination and the
5 stay is lifted.

6 No pretrial order has been filed, nor has a date been set for filing a pretrial order.

7 Lumino estimates it will take approximately 2 days following jury selection to present
8 its case in chief. Mattel has not Answered Lumino's Complaint, and therefore all of the
9 factual and legal issues to be tried are not known. Mattel generally estimates that it will take
10 approximately 2 -5 days to present its defenses and counterclaims (if any) at trial.

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12 **D. Settlement:**

13 The parties have not yet engaged in settlement discussions, although they have
14 recently agreed to at least discuss the possibility.

15 **E. Magistrate Judge:**

16 Given the stay, the parties have not yet discussed whether to proceed before a
17 magistrate judge for all purposes. No matters have been referred to the magistrate judge by
18 the predecessor district judge.

19 Dated this 28th day of September, 2010.

20 Respectfully submitted,

21 */Philip P. Mann/*
22 Philip P. Mann, WSBA No: 28860
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26 Attorneys for Plaintiff Lumino Designs,
27 Inc.

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2 Dated this 28th day of September, 2010.

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/David A. Nelson/

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David A. Nelson

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Attorneys for Mattel, Inc.

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CERTIFICATE OF SERVICE

I, Anne Smith, hereby certify that on September 28th, 2010, I caused the foregoing **Joint Statute Report** to be served on the following parties as indicated below.

David A. Nelson [] By United State Mail
Christopher Freeman [] By Legal Messenger
QUINN EMANUEL URQUHART & [X] By Electronic CM/ECF
SULLIVAN [] By Overnight Express Mail
500 W. Madison St. [] By Facsimile
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chrisfreeman@quinnmanuel.com

Attorneys for Mattel, Inc.

DATED: September 28, 2010 *s/Anne K. Smith*

Anne K. Smith